

A BILL TO BE ENTITLED

An Act creating the Texas State Board of Landscape Irrigation; defining the terms landscape irrigation system, component parts, landscape irrigator, any location, installation of underground sprinkler systems and/or landscape irrigation systems; Board; providing for exemption for certain persons in professions or other types of endeavor; creating a Board consisting of six members who shall be citizens of the United States and residents of Texas; prescribing qualifications for membership on the Board; providing method of appointment and prescribing term of office; defining a quorum of said Board; providing for and prescribing oath of office; prescribing powers and duties of the Board; authorizing the Board to adopt rules and regulations; providing for compensation and travel allowance; providing that no expense of administration of the Act shall ever be charged against the general fund of the State of Texas; prescribing qualifications for licensees; providing for examination and prescribing fees; prescribing for licenses and method of revocation and reissuance; providing for a grandfather clause; providing for notification to local boards of health; providing for a criminal penalty for one in violation of this Act to be fined the sum of \$100.00 and further providing that each day said violation continues shall be deemed a separate offense in violation of this Act; providing for an injunction in addition to the criminal penalty, enjoining anyone in violation of the Act; providing that cities and towns may prescribe rules and regulations; prescribing for appeal from Board Order; providing a saving and severability clause; repealing laws in conflict with a proviso; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This act shall be known and may be cited as the Landscape Irrigation Act of 1973.

DEFINITIONS

SECTION 2. The following terms as used hereinafter in this act shall have the following definitions:

A. "Landscape irrigation system" shall mean any assembly of component parts permanently installed with and for the controlled distribution of water for the purposes of irrigating any and all types of landscape vegetation, in any location, for dust reduction, or for erosion control.

B. A "landscape irrigator" shall be any person duly licensed by the State of Texas under this act, who has and shall

maintain a regular place of business, who, by himself, or themselves, or through a person or persons in their employ, sell design, consult, install, maintain, alter, repair or service any landscape irrigation system, including connections in and to any private or public, potable water supply or water supply system.

C. The word or term "Board" as used in this act means the Texas State Board of Landscape Irrigation, hereinafter created.

EXEMPTIONS

SECTION 3. The following acts, work and conduct shall be expressly permitted without license:

A. Irrigation or yard sprinkler work done by a property owner in a building or on premises owned or occupied by him as his home;

B. Irrigation or yard sprinkler work done by anyone who is regularly employed as or acting as a maintenance man incidental to and in consideration with the business in which he is employed or engaged, and who does not engage in the occupation of landscape irrigator or yard sprinkler contractor or maintenance for the general public; construction, installation and maintenance work done upon the premises or equipment of a railroad by an employee thereof who does not engage in the occupation of landscape irrigator or yard sprinkler construction or maintenance for the general public; and landscape irrigation and yard sprinkler construction or maintenance done by persons engaged by any public service company in the laying, maintenance and operation of its service lines or mains and the installation, alteration, adjustment, repair, removal and renovation of all types of appurtenances, equipment and appliances.

C. Any temporary or portable watering devices such as garden hose, hose sprinklers, soaker hoses and agricultural irrigation.

D. Any agricultural irrigation, portable or solid set.

E. Irrigation or yard sprinkler work or any other services authorized by this Act done by a licensed professional engineer as defined by the laws of this State.

F. Any person having a license under and by virtue of Acts 1969, 61st Legislature, Page 1516, Chapter 457 and known and cited as Article 249c of the Revised Civil Statutes of Texas, and all amendments thereto.

TEXAS STATE BOARD
OF LANDSCAPE IRRIGATION

SECTION 4. There is hereby created the Texas State Board of Landscape Irrigation which shall consist of six members, each of whom shall be a citizen of the United States and a resident of this State. All members of the Board and their successors shall be appointed by the Governor and confirmed by the Senate, and shall hold office for terms of six years, or until their successors are appointed and have qualified; except the members of the Board first appointed shall hold office, two for two years, two for four years, and two for six years as determined by the Governor in making said appointments. In addition to the above qualifications, all appointments to this Board, the first appointments inclusive, and all subsequent appointments shall have as a pre-requisite to their appointment the following qualifications:

Two members of the Board shall have had a minimum of ten years' experience as landscape irrigators, two members shall have had at least eight years' experience as landscape irrigators, and two members shall have had at least six years' experience as landscape irrigators.

SECTION 5. The Board shall administer the provisions of this Act. The Board shall formally elect a Chairman and a Secretary-Treasurer from its members and may adopt such rules as it deems necessary for the orderly conduct of its affairs. The Board is hereby authorized and empowered to employ, promote and discharge such assistants and employees as it may deem necessary to properly carry out the intent and purposes of this Act, and to fix and pay their compensation and salaries and to provide for their duties and the terms of their employment. A majority of the Board shall constitute a quorum for the transaction of

business. The Board shall have a seal which shall be judicially noticed. The Board shall keep records of all proceedings and actions by and before the Board. The Board is hereby authorized, empowered and directed to prescribe, amend and enforce rules and regulations consistent with this Act for the examination and licensing of landscape irrigators and said Board shall for that purpose appoint an employee or employees thereof, with the power of removal, as a landscape irrigator examiner or examiners, whose duty shall be to examine, as to their fitness and qualifications, all persons applying to the Board for license to engage in the business, trade or calling of landscape irrigators or lawn sprinkler companies and to promptly certify the result thereof to said Texas State Board of Landscape Irrigation.

SECTION 6. Members of the Board shall not receive any fixed salary for their services, but each member shall be allowed for each and every day in attending the meetings of the Board, the sum of \$20.00, including time spent in travel to and from such meetings, and said members shall be allowed traveling and other necessary expense while in the performance of official duty, to be evidenced by vouchers approved by the Chairman or Secretary of the Board; providing no member shall receive more than \$500.00 annually, exclusive of expenses. The members of the Board shall qualify by taking the Constitutional oath of office before an officer authorized to administer oaths within this State, and, upon presentation of such oath of office, together with the certificate of their appointment, the Secretary of State shall issue commissions to them, which shall be evidence of their authority to act as such.

SECTION 7. All sums of money paid to the Board under the provisions of this Act shall be deposited in the Treasury of the State of Texas, and placed in a special fund to be known as the "Texas State Board of Landscape Irrigation Fund". All expenditures for the administration and enforcement of this Act shall be in the amounts and for the purposes fixed by the general appropriation Bill. Provided, however, that no expense incurred

under this Act shall ever be a charge against the general funds of the State of Texas.

SECTION 8. The Board shall issue licenses to such persons of good moral character as have, by a uniform, reasonable examination, shown themselves fit, competent and qualified to engage in the business, trade or calling of a landscape irrigator, designer or consultant, as the case may be.

SECTION 9. The Board shall have power to revoke any license issued hereunder if the same was obtained through error or fraud, or if the recipient thereof is shown to be incompetent or shall have willfully, negligently or arbitrarily violated municipal rules or ordinances regulating sanitation, drainage and plumbing; provided, however, that before any license shall be revoked, the holder hereof shall have written notice enumerating the charges against him, and shall be given a hearing by said Board, and have an opportunity to produce testimony in his behalf, at a time and place specified in said notice, which time shall be not less than twenty days after the service thereof. The Board shall have power to appoint, by an order in writing, any competent person to take testimony in such hearing, who shall have power to administer oaths, issue subpoenas and compel the attendance of witnesses, and the decision of the Board shall be based upon its examination of the testimony taken and the records produced. Any person whose license has been revoked may, after the expiration of two years from the date of such revocation, but not before, apply for a new license.

SECTION 10. All landscape irrigators and yard sprinkler construction firms or persons, as the case may be, in this State and presently acting in the capacity and doing business as a landscape irrigator or yard sprinkler construction firm, or person at the time this Act takes effect, may, within one-hundred and eighty days thereafter, procure a license as a landscape irrigator without examination, upon payment of the license fee hereinafter required. Every person applying after the expiration of said

one-hundred and eighty days shall be required to take the examination herein provided for, and satisfy said Board as to his, her or their qualifications and competency.

SECTION 11. Licenses issued by the Board shall be valid throughout the State, but shall not be assignable or transferable. The Board shall forward to the local Board of Health, if there be one, of each town, or to the other authority having control of the enforcement of regulations relative to the water supplies and plumbing in each town, the names and addresses of all persons in such town to whom such licenses have been granted. Licenses shall be issued for one year and may be renewed annually on or before October 1st upon payment of the required fee. In case of failure to renew a license as aforesaid on or before October 1st in any year, the person named therein may, upon payment of the said fee and a deferred renewal fee of \$150.00, increased by such additional fees as would have been payable had such license been continuously renewed, receive a deferred renewal thereof, which shall expire on the ensuing 1st day of October; provided that such renewal license shall not constitute its holder a license for any period preceding its issue.

FEES

SECTION 12. The following shall be the maximum fees charged under this Act by the Board, to-wit:

Landscape Irrigators License - \$100.00

Renewal of Landscape
Irrigators License - \$100.00

Deferred Renewal Fee - \$150.00

SECTION 13. After the expiration of one-hundred and eighty days from the effective date of this Act, no person shall engage in, work at or conduct the business of landscape irrigation, or yard sprinkler construction or repairing in this State, except as herein specifically exempted from the provisions of this Act, unless such person is the holder of a valid license as provided for by this Act; and after the expiration of one-hundred and eighty days from the effective date of this Act, it shall be unlawful for any person to engage in, work at, or conduct the

business of a landscape irrigator unless such person is the holder of a valid license issued under the provisions of this Act and provided for hereby; and it shall be unlawful for any person, firm or corporation to engage in or work at the business of installing an irrigation or sprinkler system and doing such irrigation or sprinkler system work except as specifically herein provided unless such installation of irrigation and sprinkling system work be done under the supervision and control of a landscape irrigator licensed under this Act.

Provided, however, nothing in this Act shall prohibit a corporation maintaining an established business at one or more locations in this State from engaging in the business or trade of selling, designing, repairing or servicing any landscape irrigation system or offering for sale or selling landscape irrigation systems and all or any materials, appliances or component parts thereof at retail, provided that such corporation shall employ a person licensed under this Act in one of such business locations.

CRIMINAL PENALTY

SECTION 14. Any person, firm, association of persons, corporation, partnership, designer or consultant engaged in, working at, or conducting the business of landscape irrigator or lawn sprinkler installer, as defined by this Act, without license as provided by law, shall be deemed guilty of a misdemeanor and upon conviction hereof shall be fined in any sum not to exceed \$100.00. Each day that said violation shall continue shall be deemed a separate offense in violation of this Act.

SECTION 15. Every city, town and village in this State may, by ordinance or by law, prescribe rules and regulations for the materials, construction, alteration and inspection of all pipes, faucets, tanks, valves and other fixtures by or through which a supply of water is used or carried; and provide that they should not be placed in any building therein except in accordance with such rules and regulations; and shall further provide that no landscape, irrigation or yard sprinkling construction shall be

done except in case of normal maintenance, repairs to damages or revisions, without a permit first being issued therefor upon such terms and conditions as said city, town or village shall prescribe.

INJUNCTION

SECTION 16.

A. In addition to the criminal penalty hereinabove set out, any person, firm, partnership, association, corporation, designer, planner or consultant who shall operate to hold himself, themselves, or itself out to be a landscape irrigator without first procuring such license as required and provided for in this Act, may be enjoined from unlawfully pursuing such business or occupation, and the Attorney General shall bring suit for such purpose in the name of the State of Texas in Travis County, and the District or County Attorney or any county wherein such person, firm, association, partnership, corporation, designer, consultant or planner engages in such business or conducts such business in violation of this Act is hereby authorized to maintain in the proper court of said county a suit in the name of the State of Texas to enjoin and prevent such individuals, whether corporation or others, from unlawfully pursuing such occupation. In all such cases it shall not be necessary for the Attorney bringing suit to verify the pleadings or for the State to execute any bond as a condition precedent to the issuing of any injunction or restraining order hereunder.

B. Any license issued under this Act may be revoked by the Board upon a finding by the Board that the holder of such license has been convicted of violating any of the laws of the United States or this State involving moral turpitude or is guilty of violating any of the provisions of this Act; provided, however, the holder of such license shall be entitled to notice, and such notice shall contain a statement which will accurately apprise such license holder of that of which he is accused and shall set the time for hearing not sooner than thirty (30) days after the date of mailing of such notice, and such license holder

shall be entitled to be present at the hearing and represented by an attorney. All notices under this section shall be mailed to the last known address of the license holder as reflected in the license holder's file by certified or registered mail.

APPEAL

SECTION 17.

A. Any person aggrieved by any decision of the Board relating to the issuance, denial, revocation, or refusal to renew a license may, within sixty (60) days after the date of the decision, appeal by filing a petition in the District Court of Travis County, Texas.

B. Any person affected or aggrieved by any rule or regulation promulgated under this Act may sue in the District Court of Travis County, Texas, for a declaratory judgment as to the validity of the rule or regulation or the validity of its application to him. Process shall be served on the Attorney General and the Chairman of the Board. The provisions of the Uniform Declaratory Judgment Act (Article 2524-1, Vernon's Texas Civil Statutes) apply to the extent they may be made applicable.

SEVERABILITY

SECTION 18. If any word, phrase, clause, sentence or part of this Act shall be held by any Court of competent jurisdiction to be invalid or unconstitutional, or for other reasons void or unconstitutional, it shall not affect any other word, phrase, clause, sentence or part of this Act, it being the express intention of the Legislature to enact such Act without respect to such action or part so held to be invalid, and such remaining portion shall remain in full force and effect.

REPEAL OF CONFLICTING LEGISLATION WITH PROVISIO

SECTION 19. All laws or parts of laws in conflict with the provisions of this Act shall be, and the same are, hereby repealed, provided, however, that this Act shall not be construed as repealing or amending any laws affecting or regulating any other profession.

EMERGENCY CLAUSE

SECTION 20. The fact that the public health and welfare may be endangered by incompetent persons connecting into or onto a potable water supply, and by such reason may contaminate the drinking water of the citizens of this State creates a grave emergency and an imperative public necessity that the constitutional rule prohibiting the final passage of a bill during the first sixty (60) days of a regular legislative session and that the constitutional rule requiring bills to be read on three several days in each House be suspended, and said rules are hereby suspended and that this Act be effective from and after the date of its passage, and it is so enacted.

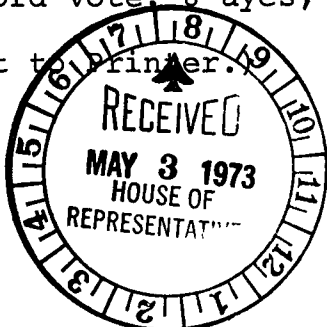
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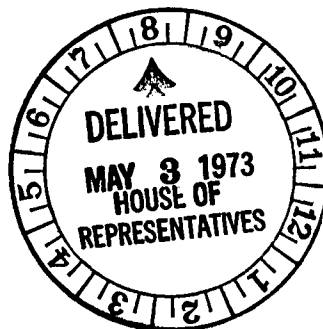
By: Hilliard, Clayton

H. B. No. 511

(In the House.--Filed February 15, 1973; February 19, 1973,
Read first time and referred to Committee on State Affairs; May 2,
1973, Committee Substitute reported favorably by the following
record vote: 8 ayes, 3 nays, 1 present, not voting, 11 absent,
sent to printer.)



FISCAL NOTE
April 26, 1973



Honorable David Finney, Chairman
Committee on State Affairs
House of Representatives
Austin, Texas 78701

In Re: House Bill No. 511
By: Hilliard, Clayton

Sir:

In response to your request and pursuant to House Rule VIII, Section 27, this office finds the fiscal implications of the Committee Amendments to House Bill No. 511 (relating to the regulation and licensing of landscape irrigators and to the title, functions, and duties of the Texas State Board of Landscape Architects) to be as follows:

1. The bill makes no appropriation but authorizes Legislative appropriations to implement the provisions of the bill.
2. Income collected under the provisions of the bill would be deposited in a special fund. The Board would set fees within maximums established by the bill. Therefore, no estimate of income is available.
3. The additional cost of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Costs</u>
1974	\$ 16,736
1975	17,358
1976	18,225
1977	19,136
1978	20,092
4. Similar annual costs will continue as long as the provisions of the bill are in effect.

Thomas M. Keel
Legislative Budget Director

(REFER TO FIRST PRINTING FOR ORIGINAL TEXT THEREOF.)

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

COMMITTEE AMENDMENT NO. 1

Amend H. B. 511 by striking all below the enacting clause and substituting the following:

Section 1. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, Chapter 457, Acts of the 61st Legislature, Regular Session, 1969 (Article 249c, Vernon's Texas Civil Statutes), are amended to read as follows:

"Section 1. DEFINITIONS. As used in this Act:

"(a) 'Landscape Architect' means a person licensed to practice or teach landscape architecture in this state as provided herein.

"(b) 'Landscape Architecture' means the performance of professional services such as consultation, investigation, research, preparation of general development and detailed design plans, studies, specifications, and responsible supervision in connection with the development of land areas where, and to the extent that, the principal purpose of such service is to arrange and modify the effects of natural scenery for aesthetic effect, considering the use to which the land is to be put. Such services concern the arrangement of natural forms, features, and plantings, including ground and water forms, vegetation, circulation, walks, and other landscape features to fulfill aesthetic and functional requirements but shall not include any services or functions within the definition of the practice of Engineering, Public Surveying, or Architecture as defined by the laws of this state.

"(c) 'Board' means the Texas State Board of Landscape Architects as created and provided for in this Act.

"(d) 'Person' means a natural person except where otherwise specifically indicated.

1 "(e) 'Secretary' means the executive secretary of the
2 board as herein provided.

3 "(f) 'Landscape irrigation system' means any assembly of
4 component parts permanently installed with and for the controlled
5 distribution of water for the purpose of irrigating any and all
6 types of landscape vegetation, in any location, or for the purpose
7 of dust reduction or erosion control.

8 "(g) 'Landscape Irrigator' means a person, corporation,
9 partnership, or other legal entity duly licensed in this state
10 under this act, who has and shall maintain a regular place of
11 business, and who, by himself, or through a person or persons in
12 his employ, sells, designs, consults, installs, maintains, alters,
13 repairs, or services any landscape irrigation system or yard
14 sprinkler system including connections in and to any private or
15 public potable water supply or water supply system.

16 "Section 2. EXEMPTIONS. "(a) The provisions of this Act
17 do not apply to nor affect laws relating to:

18 "(1) A-~~(a)~~ registered professional engineer, building
19 designer, land surveyor, nurseryman, and architect (except
20 landscape architect), respectively; ~~(-)~~

21 "(2) Irrigation or yard sprinkler work done by a property
22 owner in a building or on premises owned or occupied by him as
23 his home;

24 "(3) Irrigation or yard sprinkler work done by anyone who
25 is regularly employed as or acting as a maintenance man incidental
26 to and in consideration with the business in which he is employed
27 or engaged, and who does not engage in the occupation of landscape
28 irrigator or yard sprinkler contractor or maintenance for the
29 general public; construction, installation and maintenance work
30 done upon the premises or equipment of a railroad by an employee

1 thereof who does not engage in the occupation of landscape irrigator
2 or yard sprinkler construction or maintenance for the general public;
3 and landscape irrigation and yard sprinkler construction or main-
4 tenance done by persons engaged by any public service company in
5 the laying, maintenance and operation of its service lines or
6 mains and the installation, alteration, adjustment, repair, removal
7 and renovation of all types of appurtenances, equipment and appliances;

8 "(4) Any temporary or portable water devices such as garden
9 hose, hose sprinklers, soaker hoses and agricultural irrigation;

10 "(5) Any agricultural irrigation, portable or solid set;

11 "(6) Irrigation or yard sprinkler work or any other services
12 authorized by this Act done by a licensed professional engineer as
13 defined by the laws of this State.

14 "(b) Every agriculturist, agronomist, horticulturist, forester,
15 gardener, contract gardener, garden or lawn caretaker, nurseryman,
16 grader or cultivator of land and any person making plans for property
17 owned by himself is exempt from registration under the provisions of
18 this Act, provided however, none of the foregoing shall use the title
19 or term 'landscape architect,' or 'landscape irrigator,' in any sign,
20 card, listing, advertisement or represent himself to be a 'landscape
21 architect,' or a 'landscape irrigator,' without complying with the
22 provisions of this Act.

23 "Section 3. TEXAS STATE BOARD OF LANDSCAPE ARCHITECTS.

24 "There is hereby created a Texas State Board of Landscape
25 Architects, which Board shall consist of six [~~three~~] members, each
26 of whom shall be a citizen of the United States and a resident of
27 this State. Members of the board and their successors shall be
28 appointed by the Governor with the advice and consent of the
29 Senate; [~~7~~] three members [~~and~~] shall be individuals who have been
30 actively engaged in the practice of landscape architecture for a period

1 of not less than 10 years prior to the date of their appointment,
2 ~~[7]~~ and three members shall be individuals who have been actively
3 engaged in the practice of landscape irrigation who shall have had
4 respectively at least a minimum of 10 years, 8 years and 6 years
5 experience as landscape irrigators.

6 "The membership of the board, except the initial ~~[first-three]~~
7 members, shall consist of three ~~[be-licensed]~~ landscape architects
8 and three landscape irrigators licensed under the provisions of
9 this Act. The three present members of the board shall serve and
10 hold office pursuant to the terms of their respective appointments:
11 ~~[Members-of-the-first-board-shall-be-appointed-within-90-days-after~~
12 ~~this-Act-becomes-effective-to-serve-the-following-terms]~~ one member
13 for two years; one member for four years; and, one member for six
14 years from the date of their appointment or until their successors
15 are duly appointed and qualified. The Governor shall appoint
16 three additional members to the board, who shall be landscape
17 irrigators, on August 31, 1973, to serve the following terms:
18 one member for two years; one member for four years; and one
19 member for six years from the date of their appointment or until
20 their successors are appointed and have qualified. Thereafter,
21 at the expiration of the term of each member first appointed,
22 his successor shall be appointed by the Governor of the state,
23 and he shall serve for a term of six years, or until his
24 successor is appointed and qualified. Before entering upon the
25 duties of his office, each member of the board shall take and
26 subscribe to the constitutional oath of office, and the same
27 shall be filed with the Secretary of State. Upon the death,
28 resignation, or removal of any member of the board, the Governor
29 shall appoint a successor for the remainder of the term of such
30 member who shall qualify in the same manner as other members of

1 the board. Any member may be removed by the Governor for official
2 misconduct, gross inefficiency or moral unfitness.

3 "Section 4. POWERS AND DUTIES OF THE BOARD. (a) The board
4 shall promulgate procedural rules and regulations, consistent with
5 the provisions of this Act, to govern the conduct of its business
6 and proceedings, ~~[=]~~ and setting standards governing the connections
7 to any public or private water supply by a landscape irrigator. Not-
8 withstanding any other provision of this Act, the board shall not
9 have any power or authority to amend or enlarge upon any provision of
10 this Act by rule or regulation or by rule or regulation to change
11 the meaning in any manner whatsoever of any provision of this Act
12 or to promulgate any rule or regulation which is in any way
13 contrary to the underlying and fundamental purposes of this Act or
14 to make any rule or regulation which is unreasonable, arbitrary,
15 capricious, illegal, or unnecessary. At its first meeting it shall
16 select one of its members who shall be a Landscape Architect as
17 chairman of the board and he shall serve as such chairman for such
18 length of time not exceeding his term as a member of the board, as
19 the board may prescribe. The chairman shall serve a term as pres-
20 cribed by the rules and regulations of the board and may be
21 removed for cause, his removal however, not to disqualify him
22 from continuing as a member of the board. Four ~~[Two]~~ members
23 of the board shall constitute a quorum for the transaction of
24 business. The board may adopt such reasonable rules and regula-
25 tions of the orderly conduct of its affairs as it may deem necessary,
26 and may from time to time amend such rules and regulations.

27 "(b) The first board appointed under the provisions of this
28 Act shall hold its first meeting within 30 days after the members
29 have been qualified. It shall hold at least two regular meetings
30 each year at such time and place as the chairman may designate.

1 It may hold special meetings at such times and at such places as
 2 a majority of the board may deem necessary after giving reasonable
 3 notice thereof to all members. The board is authorized to employ
 4 an executive secretary who shall have such duties and responsibilities
 5 as the board may prescribe. The board is authorized to employ such
 6 other persons as it may deem necessary to administer the provisions
 7 of this Act. The salary of the secretary and all other employees of
 8 the board shall be fixed by the board and shall be paid out of the
 9 Texas State Board of Landscape Architect's and Irrigator's fund as
 10 provided for in this Act. All salaries paid by the board shall be
 11 reasonable, comparable in amounts to salary paid by other depart-
 12 ments of the state government to employees engaged in similar
 13 capacities. All persons employed by the board shall hold their
 14 positions at the pleasure of the board. Each member of the
 15 board shall receive as compensation for services performed in
 16 connection with his duties as such member a sum equal to his
 17 expenses actually incurred, provided however, said expenses
 18 shall not exceed the sum of \$25 per day, exclusive of travel
 19 expense. All payments to board members or employees and all
 20 expenses of the administration of this Act shall be paid out
 21 of the Texas State Board of Landscape Architect's and Irrigator's
 22 fund provided for herein, and no part of the expense of administer-
 23 ing this Act shall ever be charged against the general funds of
 24 the State of Texas. The board shall arrange for such suitable
 25 office space and equipment as it may deem necessary and the
 26 rental for such office space and the cost of such equipment shall
 27 be considered administration expenses, provided however, that if
 28 space is available this agency shall be housed in one of the state
 29 office buildings of the State of Texas and such compensation
 30 as may be required by the administration of said office building

1 shall be considered as a part of the administration expense of
2 this Act. The board shall, as of August 31st of each year,
3 after the passage of this Act make a written report to the
4 Governor accounting for all receipts and disbursements under
5 this Act.

6 "Section 5. QUALIFICATIONS FOR REGISTRATION. (a) From
7 and after [~~September-1st~~] [~~following~~] the effective date of this
8 Act, no person shall represent himself or practice in [~~or-by~~] any
9 manner as [~~to-be~~] a landscape architect, as defined herein, unless
10 such person shall be licensed [~~registered~~] as provided herein. The
11 following classes of persons shall be qualified for registration
12 and receive a license:

13 "(1) (a) Any person over the age of 21 years, notwithstanding
14 any other provisions of this Act, who submits evidence to the board
15 that prior to the passage of this Act, that he is a resident of
16 Texas and a citizen of the United States, possesses good moral
17 character, and who has, for a period of not less than three years,
18 regularly represented himself to be a landscape architect engaged
19 in the practice of landscape architecture, as defined in this Act,
20 shall be entitled to receive, upon taking the required examination,
21 hereinafter set out, [~~without-examination~~] a license to practice
22 landscape architecture as a landscape architect. [~~7-if-he-files~~
23 ~~such-application-within-six-months-of-this-Act-being-enacted-into~~
24 ~~law.--Such-application-shall-be-accompanied-by-a-fee-of-\$50.--]~~

25 "(2) (b) Any person who is a resident of the State of
26 Texas and a citizen of the United States over the age 21 years,
27 possessing good moral character, and having or holding a degree
28 from a school whose study of landscape architecture is approved
29 by the board, or shall have had not less than seven years actual
30 experience in the office of a licensed landscape architect, may

1 apply for examination and such application shall be accompanied
2 by a fee of \$50. The examination to be prepared by the members
3 of the board and given by the board at its office in Austin,
4 Travis County, Texas, or such other place as the board may
5 determine or designate, provided however, that one-third
6 ~~[a-majority]~~ of the board shall be present at each examination
7 held and provided further that not more than three examinations
8 may be held during any calendar year. The scope of the examina-
9 tion and the methods of procedure shall be prescribed by the
10 board with special reference to the applicant's ability which
11 will insure safety to the public welfare and the property
12 rights. A candidate failing an examination may apply for
13 reexamination at the expiration of six months, and shall be
14 reexamined one time without payment of additional fee.

15 "(b) No person shall engage in, work at, or conduct the
16 business of landscape irrigation, or yard sprinkler construction
17 or repairing in this state, and connect to any private or public,
18 raw or potable water supply system unless such person is the
19 holder of a valid certificate of registration as provided for
20 by this section. The board shall issue certificates of registra-
21 tion to such persons of good moral character as have, by a uniform,
22 reasonable examination, shown themselves fit, competent, and
23 qualified to engage in the business, trade, or calling of a landscape
24 irrigator. An examination for landscape irrigators shall be given
25 at the same time and place and in the same manner as an examination
26 for landscape architects is given under Subsection (a) of this
27 section, and the fee for such examination shall be \$50.

1 "Section 6. RECIPROCAL PROVISIONS. The board may certify for
2 registration without examination an applicant who is legally registered
3 as a landscape architect or irrigator in any state or country whose
4 requirements for registration are at least substantially equivalent
5 to the requirements of this state and which extends the same privilege
6 of reciprocity to landscape architects or irrigators registered in
7 this state. Such application shall be accompanied by a fee to be
8 determined by the board.

9 "Section 7. CERTIFICATES OF REGISTRATION. All certificates of
10 registration shall expire on the 31st day of August of each year,
11 following their issuance or renewal and shall become invalid on that
12 date unless renewed. It shall be the duty of the secretary of the
13 board to notify every person registered under this Act of that date
14 of expiration of his certificate and the amount of the fee that shall
15 be required for its renewal for one year; such notice shall be mailed
16 at least one month in advance of the date of the expiration of said
17 certificate. Renewal may be effected at any time during the month
18 of July or August of each year by payment of the fee as prescribed
19 and set by the board. ~~[, but-in-no-event-to-be-less-than-\$10-nor-more~~
20 ~~than-\$50-]~~ The fee for a landscape architect's certificate shall
21 be not less than \$10 nor more than \$50. The fee for landscape
22 irrigator's certificate shall be not more than \$100. Failure on the
23 part of any registrant to renew his certificate annually, and by not
24 later than August 31st, as required above shall not deprive such
25 person of the right of renewal, but the fee to be paid for the renewal
26 of a certificate after August 31st shall be increased 10 percent for
27 each month or fraction of a month that renewal payment is delayed;

1 and provided further, that if such failure to renew shall continue for
2 more than one year after the date of expiration of the registration
3 certificate, the applicant must reapply for registration and must
4 qualify under Section 5 [~~7-Subsection-(b)~~] of this Act. All renewal
5 certificates shall carry the same registration number as the original
6 certificate.

7 "Section 8. REVOCATION AND REISSUANCE OF CERTIFICATES. (a)

8 The board has the power to revoke the certificate of registration of
9 any registrant who is charged with and found guilty of:

10 "(1) Violations of provisions of this Act;

11 "(2) The practice of any fraud or deceit in obtaining a
12 certificate of registration;

13 "(3) Any gross negligence, incompetency, or misconduct in
14 the practice of landscape architecture or irrigation;

15 "(4) Holding himself out to the public or any member thereof as
16 an engineer or making use of the words 'engineer,' 'engineered,'
17 'professional engineer,' 'P.E.,' or any other terms tending to create
18 the impression that such registrant is authorized to practice
19 engineering or any other profession unless he is licensed under pro-
20 visions of Texas Engineering Practice Act or the other applicable
21 licensing law of this state.

22 "(5) Holding himself out to the public or any member thereof as
23 a surveyor or making use of the words 'surveyor,' 'surveyed,'
24 'registered public surveyor,' 'R.P.S.,' or any other terms tending to
25 create the impression that such registrant is authorized to practice
26 surveying or any other profession unless he is licensed under the
27 provisions of the Registered Public Surveyors Act or the other applicable
28 licensing law of this state.

1 "(b) In determining the truth of any such charges the board
2 shall proceed upon sworn information furnished it by any reliable
3 resident of this state; such information shall be in writing and
4 shall be duly verified by the person familiar with the facts
5 therein charged, and three copies of the same shall be filed with
6 the secretary of the board. Upon receipt of such information the
7 board, if it deems the information sufficient to support further
8 action on its part, shall make an order setting the charges therein
9 contained for hearing at a specified time and place, and the
10 secretary of the board shall cause a copy of the board's order
11 and of the information contained in the written charges to be
12 served upon the accused at least 30 days before the date appointed
13 in the order for the hearing. The accused may appear in person
14 or by counsel or both, at the time and place named in the order
15 and make his defense to the same. The board shall have the
16 power, through its chairman or secretary, to administer oaths and
17 compel the attendance of witnesses before it as in civil cases
18 in the district court, by subpoena issued over the signature of
19 the secretary and the seal of the board.

20 "Any person who may feel himself aggrieved by reason of
21 the revocation of his certificate of registration of the board,
22 as hereinabove authorized, shall have the right to file suit
23 within 30 days within receiving notice of the board's order re-
24 voking his certificate of registration in the district in the
25 county of his residence or the county in which the alleged events
26 relied upon, and grounds for revocation, took place, to annul or
27 vacate the order of the board revoking the certificates of regis-
28 tration; said suit to be filed against the board as defendant,
29 and service of process may be had upon its chairman or secretary.

1 The only issues to be tried in such cause shall be whether such person
2 has been guilty as originally found by the board, which issue shall be
3 by trial de novo, as that term is commonly used in connection with
4 an appeal from the justice of the peace court to the county court,
5 and the substantial evidence rule shall not apply.

6 "Section 9. VIOLATIONS AND PENALTIES. After the effective date
7 of this Act [~~as defined in Section 5 hereof~~], any person who represents
8 himself to be a landscape architect or irrigator in this state without
9 being registered or exempted in accordance with the provisions of this
10 Act, or any person presenting or attempting to use as his own, the
11 certificate of registration or the seal of another, or any person who
12 shall give any false or forged evidence of any kind to the board or
13 to any member thereof in obtaining or assisting in attaining for
14 another a certificate of registration, or any person who shall violate
15 any of the provisions of this Act, shall be fined not less than \$100
16 nor more than \$500, or be confined in jail for a period not to exceed
17 three months, or both. Each day of such violation shall be a separate
18 offense.

19 "The attorney general or his assistants shall act as legal
20 advisor of the board and shall render such legal assistance as may
21 be necessary in enforcing and making effective the provisions of this
22 Act, provided that this shall not relieve the local prosecuting
23 officers of any of their duties under the law as such.

24 "Section 10. FEES. Every landscape architect shall pay an
25 annual fee as set by the board, but in no event to be less than \$10
26 nor more than \$50, as provided in Section 7 hereof.

1 Every landscape irrigator shall pay an annual fee as set by the
2 board, but in no event shall it be more than \$100. The fee shall
3 be due and payable on or before August 31 of each calendar year
4 and shall become delinquent on September 1 of each year.

5 "All sums of money paid to the board under the provisions
6 of this Act, shall be deposited in the treasury of the state of
7 Texas, and placed in a special fund to be known as the 'Texas
8 State Board of Landscape Architect's and Irrigator's Fund.' All
9 expenditures for the administration and enforcement of this Act
10 shall be in the amounts and for the purposes fixed by the general
11 appropriation bill."

12 Sec. 2. A person involved in the business of landscape irri-
13 gation or yard sprinkler construction at the time this Act takes
14 effect may, within six months after the effective date of this Act,
15 obtain a landscape irrigator's certificate of registration under
16 Section 1 of this Act without being required to take an examination,
17 but the person must pay the required license fee.

18 Sec. 3. The provisions in Section 1 of this Act that a person
19 who is involved in the business of landscape irrigation or yard
20 sprinkler construction must have a landscape irrigator's certificate
21 of registration will not take effect until six months after the
22 effective date of this Act.

23 Sec. 4. The fact that the public health and welfare may be
24 endangered by incompetent persons connecting into or onto a potable
25 water supply, and by such reason may contaminate the drinking water
26 of the citizens of this state creates a grave emergency and an
27 imperative public necessity that the Constitutional Rule requiring
28 bills to be read on three several days in each House be suspended,
29 and the Rule is hereby suspended; and this Act shall take effect
30 and be in force from and after its passage, and it is so enacted.

31 Geiger

COMMITTEE AMENDMENT NO. 2

1 Amend H. B. No. 511 by striking all above the enacting clause
2 and substituting the following:

3 A BILL TO BE ENTITLED

4 AN ACT

5 relating to the regulation and licensing of landscape irrigators
6 and to the title, functions, and duties of the Texas State Board
7 of Landscape Architects; amending Sections 1, 2, 3, 4, 5, 6, 7,
8 8, 9, and 10, Chapter 457, Acts of the 61st Legislature, Regular
9 Session, 1969 (Article 249c, Vernon's Texas Civil Statutes); and
10 declaring an emergency.

11

Geiger

COMMITTEE REPORT

COMMITTEE ROOM

Austin, Texas, May 3, 1973

Hon. Price Daniel, Jr., Speaker of the House of Representatives.

SIR: We, your Committee on State Affairs, to whom was referred H. B. No. 511, have had the same under consideration and beg to report back with recommendation that it do pass, and be not printed. Committee Substitute was recommended and is to be printed in lieu of the original bill.

The measure was reported from Committee by the following record vote:
8 ayes, 3 nays, 1 present, not voting, 11 absent.

Pike Powers, Vice-Chairman

BILL ANALYSIS

Background Information:

At present landscape irrigators are not being regulated to any extent. The author feels this leads to many unqualified people doing this type work which H. B. 511 will eliminate.

What the Bill Proposes to Do:

To amend Art. 249c, V.T.C.S., to make it applicable to "Landscape Irrigators," and to increase the membership of the State Board of Landscape Architects to six.

Section by Section Analysis:

Section 1. Amends Art. 249c, V.T.C.S., as follows:

Sec. 1. Adds definitions for "landscape Irrigation System" and "landscape irrigator".

Sec. 2. Adds the following exemptions to this Act: irrigation work done by the property owner or a maintenance man in the employ of the owner who is not an irrigator or contractor for the public, temporary watering devices, agriculture irrigation, or irrigation work done by a licensed professional engineer.

Sec. 3. Increases the Texas State Board of Landscape Architects from three members to six.

Sec. 4. Requires that the Chairman of the Board "shall be a landscape architect".

Sec. 5. Adds a new subsection (b) forbidding any person from engaging in landscape irrigation without having a certificate of registration and enumerating the requirements for such certificate.

Sec. 6. Includes "irrigators" in its reciprocal provision.

Sec. 7. Provides for the landscape irrigator's certificate fee to be not more than \$100.

Sec. 8. No change.

Sec. 9. No change.

Sec. 10. Provides for a landscape irrigator's annual fee not to exceed \$100, and changes the name of the special fund to the "Texas State Board of Landscape Architect's and Irrigator's Fund"

Sec. 2. Allows a person already involved in landscape irrigation to obtain a certificate without an examination within six months.

Sec. 3. Provides a six month period before the provisions of Section 1 requiring a certificate become effective.

Sec. 4. Emergency Clause.

Summary of Committee Action:

The Committee on State Affairs posted notice in Accordance with Rule VIII, Section 13, and considered H. B. No. 511 in a public hearing on April 25, 1973. The bill was referred to Sub-committee and reported back Favorably to the full committee on April 26, 1973. The Committee voted on May 2, 1973 by a record vote of 8 ayes and 3 nays, to report the bill back to the House Favorably with the recommendation that it do pass, as amended.

A BILL TO BE ENTITLED

An Act creating the Texas State Board of Landscape Irrigation; defining the terms landscape irrigation system, component parts, landscape irrigator, any location, installation of underground sprinkler systems and/or landscape irrigation systems; Board; providing for exemption for certain persons in professions or other types of endeavor; creating a Board consisting of six members who shall be citizens of the United States and residents of Texas; prescribing qualifications for membership on the Board; providing method of appointment and prescribing term of office; defining a quorum of said Board; providing for and prescribing oath of office; prescribing powers and duties of the Board; authorizing the Board to adopt rules and regulations; providing for compensation and travel allowance; providing that no expense of administration of the Act shall ever be charged against the general fund of the State of Texas; prescribing qualifications for licensees; providing for examination and prescribing fees; prescribing for licenses and method of revocation and reissuance; providing for a grandfather clause; providing for notification to local boards of health; providing for a criminal penalty for one in violation of this Act to be fined the sum of \$100.00 and further providing that each day said violation continues shall be deemed a separate offense in violation of this Act; providing for an injunction in addition to the criminal penalty, enjoining anyone in violation of the Act; providing that cities and towns may prescribe rules and regulations; prescribing for appeal from Board Order; providing a saving and severability clause; repealing laws in conflict with a proviso; and declaring an emergency.

FILED FEB 15 1973

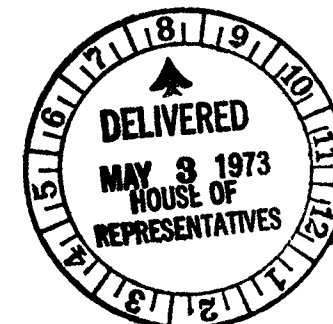
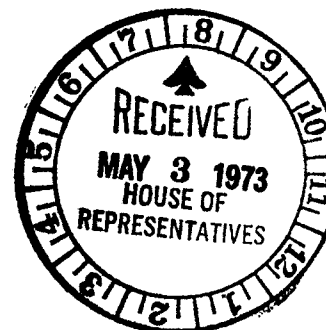
READ 1ST TIME
AND REFERRED TO COMMITTEE ONState Affairs

FEB 19 1973

Fiscal Note requested 2/21/73

David Finney

MAY 2 1973 COMMITTEE SUBSTITUTE REPORTED FAVORABLY SENT TO PRINTER

PRINTED, DISTRIBUTED AND
REFERRED TO COMMITTEE ON
CALENDARS 8:00 P.M. MAY 3 1973
(Time) (Date)